

REMARKS

Claim 22 has been amended to specify that the upper support shelf has upwardly extending side walls, a back wall, and front rim for positioning the base of the container on the upper support shelf whereby the top opening of the container is accurately positioned so that the lid matingly engages and closes the top opening of the container when the lid is in a closed position. The Office Action in rejecting claim 22 relied upon Salmon (US 6,550,792) in view of Rauschenberger et al. (EPO 0 955 224). As set forth in the Office Action, Salmon has a top shelf with a shape which compliments the shape of the container's top portions which is completely opposite from that of Applicant's dolly as now set forth in claim 22 wherein the configuration of the upper support shelf is complimentary to the base of the container for properly positioning the container on the upper shelf so that the top of the container is accurately positioned so that the lid matingly engages and closes the top opening when the lid is in the closed position. As clearly shown in the drawings, Applicant's side walls extend only partially along the container and has no relationship to the container top portions shown in Salmon. It is the side walls in Salmon which appear to engage the top portions of the container for positioning the container on the top shelf. As stated above, this is completely opposite to the effect achieved by Applicant's base configuration.

As discussed in the previous response, the lid of Salmon covers the top opening of the container but is spaced a considerable distance therefrom as shown in Fig. 1 and does not in any manner engage the top opening of the container, and in fact is completely out of engagement with the container. Furthermore it is not obvious why one of ordinary skill in the art would adjust the height of the top of the cart in Salmon so that the lid matingly engages and closes the container on the upper most shelf. MPEP § 2142 specifies that to establish a *prima facie* case of obviousness, there must be some suggestion or motivation in the references themselves or in the knowledge generally available to one skilled in the art, to modify the reference in such a manner. It is respectfully submitted that there is absolutely no teaching in Salmon or any reason why the top shelf thereof would be

adjusted upwardly so that the lid matingly engages the container which is not even possible since the lid of Salmon is configured to rest upon the top edges of the side walls 38 and 40. Furthermore, it appears from Figs. 1 and 2 that the container in Salmon located on the upper shelf, is spaced sufficiently below the lid that it could even be slidably inserted and removed from the cart when the lid is in the closed position.

Rauschenberger does not have, show or suggest any type of lid mounted on the dolly, much less a lid, which if even mounted on the dolly, would matingly engage the top opening of a container supported on the uppermost shelf as defined in claim 22.

Thus, it is respectfully submitted that claim 22 as now amended, patentably defines over Salmon, individually or when combined with Rauschenberger, since it would not be obvious and that there is no teaching in either of the references for configuring the bottom shelf to properly position the base of the container thereon so that the top opening is accurately positioned to be selectively, matingly engaged by the lid when the lid is in the closed position. As stated above Rauschenberger does not even disclose a lid and the lid of Salmon is spaced a considerable distance below the top opening of the container on the uppermost shelf, and furthermore does not engage the container in any manner. Thus, it is respectfully submitted that claim 22 be allowed along with claims 7, 9, 11, 13, 16, 21 and 23-31 depended therefrom.

New independent claim 33 specifies that the side walls of the upper support shelf extend only partially upwardly along the container supported thereon which is clearly shown in the drawings and set forth on page 6, line 3 of the Specification.

Also, claim 29 (previously presented) specifies that a latch is formed on the lid and configured to clip over a rim defining the top opening of the uppermost container. There is clearly nothing shown, suggested or taught in Salmon or Rauschenberger showing any type of latch. Streit et al. (US 4,319,762) shows a latch on a container, but it is not a dolly nor are there containers that slide on shelves which are engaged by such a latch. There is nothing in Streit, Salmon or Rauschenberger which would suggest placing a latch on the lid of Salmon for

matingly engaging the container on the uppermost shelf, since the shelf of Salmon is spaced a considerable distance above the container and is not even engaged therewith when in the closed position.

In view of the above remarks and amendments, it is respectfully requested that independent claim 22 is allowable and should be passed to issuance along with those claims depended therefrom, together with allowed claims 1-3, 8, 10, 12 and 17-20. Please call the undersigned attorney if any questions remain after this amendment.